

1 AN ACT concerning floodplains.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 adding Sections 3.102 and 3.103 as follows:

6 (415 ILCS 5/3.102 new)

7 Sec. 3.102. 100-year flood. "100-year flood" means a flood  
8 that has a 1% or greater chance of recurring in any given year  
9 or a flood of a magnitude equaled or exceeded once in 100 years  
10 on the average over a significantly longer period.

11 (415 ILCS 5/3.103 new)

12 Sec. 3.103. 100-year floodplain. "100-year floodplain"  
13 means the lowland and relatively flat areas adjoining inland  
14 and coastal waters, including flood-prone areas of offshore  
15 islands, that are inundated by a 100-year flood. For the  
16 purposes of this Act, including for the purposes of granting  
17 permit and license applications filed or pending prior to the  
18 effective date of this amendatory Act of the 96th General  
19 Assembly, an area shall be deemed by operation of law not to be  
20 within the 100-year floodplain if the area lies within an area  
21 protected by a federal levee and is located in a flood  
22 prevention district established in accordance with the Flood

1 Prevention District Act; provided, however, that an area that  
2 lies within a flood prevention district established in  
3 accordance with the Flood Prevention District Act shall not be  
4 excluded by operation of law from the 100-year floodplain if  
5 the area is not protected by a federal levee and, according to  
6 the currently adopted federal flood insurance rate map, the  
7 area is subject to inundation by a 100-year flood as a result  
8 of the flooding of bodies of water other than the Mississippi  
9 River.

10 Section 10. The Livestock Management Facilities Act is  
11 amended by adding Section 10.3 as follows:

12 (510 ILCS 77/10.3 new)

13 Sec. 10.3. 100-year floodplain. "100-year floodplain"  
14 means the lowland and relatively flat areas adjoining inland  
15 and coastal waters, including flood-prone areas of offshore  
16 islands, that are inundated by a flood that has a 1% or greater  
17 chance of recurring in any given year or a flood of a magnitude  
18 equalled or exceeded once in 100 years on the average over a  
19 significantly long period. For the purposes of this Act,  
20 including for the purposes of granting permit and license  
21 applications filed or pending prior to the effective date of  
22 this amendatory Act of the 96th General Assembly, an area shall  
23 be deemed by operation of law not to be within the 100-year  
24 floodplain if the area lies within an area protected by a

1 federal levee and is located in a flood prevention district  
2 established in accordance with the Flood Prevention District  
3 Act; provided, however, that an area that lies within a flood  
4 prevention district established in accordance with the Flood  
5 Prevention District Act shall not be excluded by operation of  
6 law from the 100-year floodplain if the area is not protected  
7 by a federal levee and, according to the currently adopted  
8 federal flood insurance rate map, the area is subject to  
9 inundation by a 100-year flood as a result of the flooding of  
10 bodies of water other than the Mississippi River.

11 Section 15. The Rivers, Lakes, and Streams Act is amended  
12 by adding Section 18h and by changing Sections 18f and 18g as  
13 follows:

14 (615 ILCS 5/18f) (from Ch. 19, par. 65f)

15 Sec. 18f.

16 (a) The Department of Natural Resources shall define  
17 100-year floodplains ~~flood plains~~ within the State of Illinois  
18 on a township by township basis and may issue permits for any  
19 construction within such 100-year floodplains ~~flood plains~~ on  
20 or after the effective date of this amendatory Act of 1971. The  
21 Department shall publish and distribute suitable reports,  
22 together with mapping and hydrologic exhibits pertaining to  
23 100-year floodplains ~~flood plains~~ defined and established  
24 under this Act. In defining applicable 100-year floodplains

1 ~~flood plains~~, the Department shall cooperate with, and shall  
2 consider planning and zoning requirements of, regional  
3 planning agencies created by statute, counties, municipalities  
4 and other units of government. A period of thirty days shall be  
5 allowed for any agency to submit written comments to the  
6 Department regarding any proposed 100-year floodplain ~~flood~~  
7 ~~plain~~ area. If such agency fails to return comments to the  
8 Department within the specified time period the Department may  
9 proceed with the publication and institution of the 100-year  
10 floodplain ~~flood plain~~ permit procedure. The Department is  
11 charged with the planning, development, and evaluation of the  
12 most economic combination of retention storage, channel  
13 improvement, and floodplain ~~flood plain~~ preservation in  
14 defining and establishing 100-year floodplain ~~flood plain~~  
15 areas. All construction undertaken on a defined 100-year  
16 floodplain ~~flood plain~~ subsequent to the effective date of this  
17 amendatory Act, without benefit of a permit from the Department  
18 of Natural Resources, shall be unlawful and the Department, may  
19 in its discretion, proceed to obtain injunctive relief for  
20 abatement or removal of such unlawful construction. The  
21 Department, in its discretion, may make such investigations and  
22 conduct such hearings as may be necessary to the performance of  
23 its duties under this amendatory Act of 1971. Activity of the  
24 Department under this Section shall be limited to townships  
25 related to projects of the Department authorized by the General  
26 Assembly. The report of the Department shall be considered a

1 final administrative decision and subject to judicial review in  
2 accordance with the provision of the Administrative Review Law.

3 (b) For the purposes of this Section, including for the  
4 purposes of granting permit and license applications filed or  
5 pending prior to the effective date of this amendatory Act of  
6 the 96th General Assembly, "100-year floodplain" means the  
7 lowland and relatively flat areas adjoining inland and coastal  
8 waters, including flood-prone areas of offshore islands, that  
9 are inundated by a flood that has a 1% or greater chance of  
10 recurring in any given year or a flood of a magnitude equalled  
11 or exceeded once in 100 years on the average over a  
12 significantly long period. For the purposes of this Section, an  
13 area shall be deemed by operation of law not to be within the  
14 100-year floodplain if the area lies within an area protected  
15 by a federal levee and is located in a flood prevention  
16 district established in accordance with the Flood Prevention  
17 District Act; provided, however, that an area that lies within  
18 a flood prevention district established in accordance with the  
19 Flood Prevention District Act shall not be excluded by  
20 operation of law from the 100-year floodplain if the area is  
21 not protected by a federal levee and, according to the  
22 currently adopted federal flood insurance rate map, the area is  
23 subject to inundation by a 100-year flood as a result of the  
24 flooding of bodies of water other than the Mississippi River.

25 (Source: P.A. 89-445, eff. 2-7-96.)

1 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

2 Sec. 18g. (a) The Department of Natural Resources shall  
3 define the 100-year floodway within metropolitan counties  
4 located in the area served by the Northeastern Illinois  
5 Planning Commission, except for the part of that area which is  
6 within any city with a population exceeding 1,500,000. In  
7 defining the 100-year floodway, the Department may rely on  
8 published data and maps which have been prepared by the  
9 Department itself, by the Illinois State Water Survey of the  
10 University of Illinois, by federal, State or local governmental  
11 agencies, or by any other private or public source which it  
12 determines to be reliable and appropriate.

13 (b) The Department may issue permits for construction that  
14 is an appropriate use of the designated 100-year floodway in  
15 such metropolitan counties. If a unit of local government has  
16 adopted an ordinance that establishes minimum standards for  
17 appropriate use of the floodway that are at least as  
18 restrictive as those established by the Department and this  
19 Section, and the unit of local government has adequate staff to  
20 enforce the ordinance, the Department may delegate to such unit  
21 of local government the authority to issue permits for  
22 construction that is an appropriate use of the floodway within  
23 its jurisdiction.

24 (c) No person may engage in any new construction within the  
25 100-year floodway as designated by the Department in such  
26 metropolitan counties, unless such construction relates to an

1 appropriate use of the floodway. No unit of local government,  
2 including home rule units, in such metropolitan counties may  
3 issue any building permit or other apparent authorization for  
4 any prohibited new construction within the 100-year floodway.

5 (d) For the purpose of this Section, including for the  
6 purposes of granting permit and license applications filed or  
7 pending prior to the effective date of this amendatory Act of  
8 the 96th General Assembly:

9 (1) "100-year floodway" means the channel and that  
10 portion of the 100-year floodplain adjacent to a stream or  
11 watercourse which is needed to store and convey the  
12 100-year frequency flood discharge without a significant  
13 increase in stage.

14 (1.5) "100-year floodplain" means the lowland and  
15 relatively flat areas adjoining inland and coastal waters,  
16 including flood-prone areas of offshore islands, that are  
17 inundated by a flood that has a 1% or greater chance of  
18 recurring in any given year or a flood of a magnitude  
19 equalled or exceeded once in 100 years on the average over  
20 a significantly long period.

21 (2) "New construction" means the construction of any  
22 new building or structure or the placement of any fill or  
23 material, but does not include the repair, remodeling or  
24 maintenance of buildings or structures in existence on the  
25 effective date of this amendatory Act of 1987.

26 (3) "Appropriate use of the floodway" means use for (i)

1 flood control structures, dikes, dams and other public  
2 works or private improvements relating to the control of  
3 drainage, flooding or erosion; (ii) structures or  
4 facilities relating to the use of, or requiring access to,  
5 the water or shoreline, including pumping and treatment  
6 facilities, and facilities and improvements related to  
7 recreational boats, commercial shipping and other  
8 functionally dependent uses; and (iii) any other purposes  
9 which the Department determines, by rule, to be appropriate  
10 to the 100-year floodway, and the periodic inundation of  
11 which will not pose a danger to the general health and  
12 welfare of the user, or require the expenditure of public  
13 funds or the provision of public resources or disaster  
14 relief services. Appropriate use of the floodway does not  
15 include construction of a new building unless such building  
16 is a garage, storage shed or other structure accessory to  
17 an existing building and such building does not increase  
18 flood stages.

19 (4) "Person" includes natural persons, corporations,  
20 associations, governmental entities, and all other legal  
21 entities.

22 (e) All construction undertaken on a designated 100-year  
23 floodway in such metropolitan counties, without benefit of a  
24 permit from the Department of Natural Resources, shall be  
25 unlawful and the Department or any affected unit of local  
26 government may, in its discretion, proceed to obtain injunctive

1 relief for abatement or removal of such unlawful construction.  
2 The Department, in its discretion, may make such investigations  
3 and conduct such hearings and adopt such rules as may be  
4 necessary to the performance of its duties under this Section.

5 (f) This Section does not limit any power granted to the  
6 Department by any other Act.

7 (g) This Section does not limit the concurrent exercise by  
8 any unit of local government of any power consistent herewith.

9 (h) This Section does not apply to any city with a  
10 population exceeding 1,500,000.

11 (Source: P.A. 95-728, eff. date - See Sec. 999.)

12 (615 ILCS 5/18h new)

13 Sec. 18h. Conflicts with Executive Order 2006-5. To the  
14 extent that Executive Order 2006-5 is inconsistent with the  
15 provisions of this amendatory Act of the 96th General Assembly,  
16 the provisions of this amendatory Act shall govern.

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.